

(2010) 02 MAD CK 0214

In the Madras High Court

Case No : Writ Petition No. 1500 of 2010 and M.P. No. 1 of 2010

P. Periyasamy

APPELLANT

Vs

The Tamil Nadu Electricity Board and Others

RESPONDENT

Date of Decision : 22-02-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 2 CTC 897

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : P. Valliappan, for the Appellant; A. Selvendran, Advocate for Respondent No. 1 and Mr. P. Srinivas, Advocate for Respondent Nos. 2 to 6, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—This Writ Petition has been filed praying for a Writ of Certiorarified Mandamus, to call for and quash the proceedings of the second respondent dated, 25.11.2009, and to direct the respondents to provide electricity service connection, to the Well situated, in Survey No. 141/6B6, in pursuance of the Application made to the fourth respondent, in Registration No. 566, dated, 28.12.2006. The petitioner has stated that, the property situated in Survey No. 141/2 and 141/6B6, Madhavachary Village and Post, Kallakurichi Taluk, is the ancestral property of the petitioner. The said property had belonged to the petitioner, his father Palanimuthu and his younger brother Iyyappan. The Property in Survey No. 141/2, had been purchased in the name of the petitioner, under a registered Sale Deed, dated, 29.06.2006, registered as document No. 926/2006, before the Sub-Registrar, Vadakku Nandhal, Kallakurichi Taluk, out of the funds of the joint family. The petitioner and his family members were carrying on agricultural operations in the property in question and they are in joint enjoyment of the said property. On 27.06.2007, the petitioner, his father and his younger brother had entered into a registered partition. According to the

said partition, Survey No. 141/2 formed part of the "C" Schedule and Survey No. 141/6B6 had formed part of the "B" Schedule property. Accordingly, Survey No. 141/2 had been allotted to the petitioner's younger brother and Survey No. 141/6B6 was allotted to the petitioner.

2. The petitioner has also stated that an Application, had been made to the fourth respondent, on 28.12.2006, for electricity service connection to the well situated in Survey No. 141/2, Madhavacherry Village and Post, Kallakurichi Taluk, by paying the necessary application fee of Rs. 500/-, in application registration No. 566. Subsequently, the petitioner had submitted an application to the sixth respondent, requesting him to give the electricity service connection to Survey No. 141/6B6, instead of to Survey No. 141/2, Madhavacherry Village and Post, Kallakurichi Taluk, in view of the registered partition in the petitioner's family. However, by proceedings, dated, 25.11.2009, the second respondent had rejected the said request. In such circumstances, the petitioner had preferred the present Writ Petition before this Court, under Article 226 of Constitution of India.

3. In spite of a number of opportunities having been given to the learned counsel for the respondent Tamil Nadu Electricity Board, nothing has been shown to substantiate the averments made in the counter affidavit filed on behalf of the respondents, to reject the request of the petitioner for effecting electricity service connection, to the well situated at Survey No. 141/6B6, instead of to the Survey No. 141/2, Madhavacherry Village and Post, Kallakurichi Taluk, as per the petitioner's Application, dated 28.12.2006. Even though the learned counsel for the respondents had placed before this Court, a Memorandum issued by the Tamil Nadu Electricity Board, in Memorandum No. SE/IEMC/EE3/AEE2/AE/F.S.23/D.382/99, (Techi. Br.) Dated 02.07.99, there is nothing seen in the said Memorandum prohibiting the respondents from complying with the request of the petitioner to grant electricity service connection to the well situated at Survey No. 141/6B6, Madhavacherry Village and Post, Kallakurichi Taluk. In such circumstances, since, there is no impediment for the respondents to comply with the request of the petitioner, the impugned proceedings of the second respondent, dated, 25.11.2009, is set aside and the respondents 2 to 6 are directed to comply with the request of the petitioner to give electricity service connection to the well situated in Survey No. 141/6B6, instead of to the Survey No. 141/2, Madhavacherry Village and Post, Kallakurichi Taluk, pursuant to the Application No. 566, dated 28.12.2006, within a period of four weeks from the date of receipt of a copy of this order. This Writ Petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.